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UNCLAS NIAMEY 001007

DEPT FOR AF/W DENNISON, AF/RSA HARPOLE AND AF/PDPA LISENBY

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SUBJECT: Charges Stick, but Kaka Granted Provisional Release

Ref: a) Niamey 964 and previous, b) Niamey 196, c) Niamey 093

11. (U) On October 7, the Nigerien High Court of Appeals affirmed new charges against RFI affiliate director Moussa Kaka at the request of state prosecutors, but granted him "immediate, provisional release" from prison. No trial date has been set.

12. (U) Kaka was arrested on September 20, 2007, on charges of "conspiracy against national security" for alleged collaboration with MNJ rebels, and remained imprisoned until the October 7, 2008 ruling. On September 16, 2008, state prosecutors petitioned the court to revise the charges against Kaka from conspiracy to "acts aiming to undermine national defense." Kaka's lawyer requested that the court affirm a previous ruling to dismiss the case and release Kaka (ref a).

13. (U) Kaka had been ordered released previously; however, in each prior instance state prosecutors appealed, and he remained in custody pending a judicial ruling on the appeal. Prosecutors still have forty-eight hours to appeal his provisional release; however, post has confirmed with Kaka that he is now at home.

14. (SBU) COMMENT: Kaka's release fits a pattern in other cases involving journalists, where provisional release is granted, but charges remain pending indefinitely. Most recently this occurred in the cases of Ibrahim Manzo Diallo, director of Agadez-based private newspaper Air Info (ref b), and two French journalists from European TV station ARTE arrested for filming the MNJ (ref c). In Diallo's case, although free, he remains potentially vulnerable to prosecution at any time on the pending charges, should his reporting displease GON officials. The release of the French journalists was viewed as a face-saving solution, as the two were permitted to return to France shortly after their release, and are presumably out of reach of Nigerien prosecutors. END COMMENT.

WHITAKER